



# RULE-MAKING ORDER

**CR-103 (June 2004)**  
(Implements RCW 34.05.360)

**Agency:** Department of Labor and Industries

☐ Permanent Rule  
☒ Emergency Rule

**Effective date of rule:**

**Permanent Rules**

☐ 31 days after filing.  
☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

☒ Immediately upon filing.  
☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes ☒ No If Yes, explain:

**Purpose:** The purpose of the emergency rule is to correct language in WAC 296-46B-995, regarding appeals. The emergency language will amend the burden of proof from the appellant to the department for appeals heard before the Office of Administrative Hearings (OAH) or directly by the Electrical Board. If there is an appeal from an OAH decision, the party aggrieved is responsible for the burden of proof.

**Citation of existing rules affected by this order:**

Repealed: None.  
Amended: WAC 296-46B-995  
Suspended: None

**Statutory authority for adoption:** Chapter 19.28 RCW

**Other authority :** None

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as \_\_\_\_\_ on \_\_\_\_\_.

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: The general welfare of the public is at risk if a violator is able to continue working due to a technicality in the rule. Licensing/Certification revocation/suspension hearings and unsafe installation and electrical power disconnection hearings are heard directly by the Electrical Board. With the current language, the department will likely lose any case brought directly to the board for appeal. This could result in a contractor or electrician who is unqualified or makes unsafe electrical installations to continue doing business and placing the general public and workers in jeopardy due to their unsafe installations. A constitutional argument can also be made that appeals taken to the Office of Administrative Hearings could be lost on the same basis and ultimately have the same safety consequence.

**Date adopted:** December 4, 2007

**NAME (TYPE OR PRINT)**

Judy Schurke

**SIGNATURE**

**TITLE**

Director

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** December 04, 2007

**TIME:** 2:51 PM

**WSR 07-24-067**

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	_____	Amended	<u>1</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	<u>1</u>	Repealed	_____